

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

WINSTON SANDERS,

Plaintiff,

v.

BRIAN ARSENAULT, et al.,

Defendants.

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Civil Action No. 19-cv-12284-IT

ORDER

April 24, 2020

TALWANI, D.J.

Pro se Plaintiff Winston Sanders, who is incarcerated at MCI Cedar Junction, has filed a Complaint [#1] in which he alleges that two MCI Cedar Junction correctional officers—Brian Arsenault and Matthew Borges—used excessive force against him and made false disciplinary charges against him. In a January 6, 2020 Order [#5], the Court granted Sanders’s Motion for Leave to Proceed in Forma Pauperis [#2] and allowed his claims against Arsenault and Borges to go forward. Instead of ordering the issuance of summonses, the Court directed Sanders to request the defendants to waive service of summons.

In a recent Letter [#9], Sanders informs the Court that he has been unable to make said request of the defendants, and he asks that summonses issue. The Court GRANTS the request. The Clerk shall issue summonses for defendants Arsenault and Borges.

The requirements of in-hand service of process under Rule 4(e)(2) of the Federal Rules of Civil Procedure are at odds with the public health concerns raised by the current COVID-19 pandemic. Considering the interests of justice and public safety, the Court will not at this time

require the United States Marshals Service to effect in-hand service of the complaint and summonses.

Instead, the Court requests the Massachusetts Department of Correction (“DOC”) to accept service of the complaint and summonses on behalf of both defendants by transmission of the same from the Clerk to the DOC by email or certified mail. If the defendants authorize service in this fashion, the defendants will have 60 days from the date of service to respond to the complaint. This request applies only to the present case.

The Court asks that the DOC respond to this request within fourteen days. An appearance by counsel for the DOC or the defendants for the sole purpose of responding to this request will not be considered a general appearance.

The Clerk shall transmit this order electronically and in paper to Special Assistant Attorney General Nancy Ankers White and DOC Deputy General Counsel Stephen Dietrick. The Court shall also send paper copies of this order addressed to defendants Arsenault and Borges at MCI Cedar Junction.

SO ORDERED.

/s/ Indira Talwani
Indira Talwani
United States District Judge

April 24, 2020